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23 UNITED STATES DISTRICT COURT
24 NORTHERN DISTRICT OF CALIFORNIA
25
26 NORTHERN DIVISION

27 AUDREY MCNAMARA NEVIS,
28
29 Plaintiff,
30
31 vs.
32
33 WELLS FARGO BANK, et al.
34
35 Defendants.

No.: C-07-2568 MHP

**STIPULATION FOR PROTECTIVE
ORDER AND ORDER**

36 IT IS HEREBY STIPULATED, by and between the parties to the instant action who have
37 appeared, through the respective attorneys, that the protective order as hereinafter set forth be
38 entered:

39 1. The parties wish to provide a means of limiting use, access to and disclosure of
40 Protected Information which has been and is produced through discovery in this lawsuit.

1 2. “Protected Information” is defined for purposes of this Stipulated Protective Order as
2 the following types of documents and information which have or will be produced by any party who
3 has appeared or will hereafter appear:

4 (a) Information that constitutes a trade secret in accordance with Cal. Civil Code §
5 3426.1;

6 (b) Information which is non-public communications with are intended to be kept
7 confidential and/or are protected from disclosure by statute or regulation;

8 (c) Non-public business or financial strategies, and/or confidential competitive
9 information which, if disclosed, would result in prejudice or harm to the disclosing party;

10 (d) Private consumer information that contains identifying, contact or private financial
11 information; or

12 (e) Information which otherwise qualifies for protection under standards developed under
13 Federal Rule of Civil Procedure 26(c).

14 This Stipulated Protective Order shall apply to copies, extracts, and summaries of documents
15 designated as Protected Information. Protected Information shall be so designated by stamping
16 copies of the document produced with one of the following legends: “CONFIDENTIAL - SUBJECT
17 TO PROTECTIVE ORDER” or “CONFIDENTIAL.” Any such stamp or designation shall not
18 cover up, obscure or otherwise conceal any text, picture, drawing, graph or other communication or
19 depiction in the document. The parties agree that all the documents produced by plaintiff in her
20 initial disclosures and produced by defendant Gateway Title Company in its initial disclosures shall
21 be treated as Protected Information pursuant to the terms of this Stipulated Protective Order.

22 3. If any party objects to designation of materials as Protected Information, that party
23 may initiate a meet and confer process intended to resolve the issue. If that process is not successful,
24 the party may apply to the Court to challenge a designation made by any other party. However, the
25 parties shall comply with this Stipulated Protective Order unless the Court orders otherwise.

26 4. Nothing in this Stipulated Protective Order shall be deemed a waiver of the right of
27 any party to designate any other information as Protected Information. If any Protected Information
28 is inadvertently produced to a discovering party without being marked as “CONFIDENTIAL,” the

1 party may thereafter designate such material as Protected Information and its initial failure to so
2 mark the material shall not be deemed a waiver of its confidentiality. Until the material is
3 designated as Protected Information by the producing party, however, the discovering party shall be
4 entitled to treat the material as non-confidential.

5 5. Except as may be otherwise provided by further order of this Court, Protected
6 Information shall be disclosed only to: (i) the parties to this lawsuit, and officers and employees of
7 the parties; (ii) the parties' attorneys and their support staff, investigators, agents and employees; (iii)
8 experts and consultants retained by the parties or their attorneys to assist them in the prosecution,
9 defense or settlement of this lawsuit and their respective employees, associates or colleagues; (iv)
10 the judiciary, its employees and its agents, including jurors involved in this lawsuit; (v) court
11 reporters, their transcribers, assistants and employees hired to assist the parties or the judiciary in
12 this lawsuit; (vi) witnesses at the trial of the action and deponents in this action where a party deems
13 such dissemination is necessary for the purpose of obtaining relevant testimony; and (vii) authors,
14 subjects and recipients of the Protected Information, (viii) employees of firms engaged by the parties
15 for the purposes of photocopying, electronic imaging or computer litigation support in connection
16 with this litigation. Nothing in this Stipulated Protective Order shall prohibit disclosure of Protected
17 Information in response to compulsory process or the process of any governmental regulatory
18 agency. If any person subject to this Stipulated Protective Order is served with such process or
19 receives notice of any subpoena or other discovery request seeking Protected Information, such
20 person shall promptly (not more than three (3) working days after receipt of such process or notice)
21 notify the designating party of such process or request, shall take all reasonable steps to refrain from
22 producing the Protected Information in response to such process, and shall afford a reasonable
23 opportunity for the designating party to oppose the process or to seek a protective order.

24 6. Individuals and entities identified above (other than jurors, the judiciary, its
25 employees and agents) to whom documents, correspondence, materials or information are to be
26 given, shown, made available, disclosed, or communicated in any way shall first be advised of the
27 terms of this Stipulated Protective Order, shall agree to be bound by it, and shall agree to be subject
28

1 to the jurisdiction of the Court to which this action is pending for the purpose of proceedings relating
2 to the performance under, compliance with, or violation of this Stipulated Protective Order.

3 7. (a) Without written permission from the designating party or a court order
4 secured after appropriate notice to all interested persons, no party may file in the public record in this
5 action any Protected Information. Any party that seeks to file under seal any Protected Information
6 must comply with Civil Local Rule 79-5 to seek to file or lodge in sealed envelopes or other
7 appropriate sealed containers Protected Information labeled "CONFIDENTIAL: LODGED
8 CONDITIONALLY UNDER SEAL PENDING COURT ORDER," with an affixed cover sheet
9 which contains the entire case caption and a statement that the enclosed record is subject to a motion
10 to file the enclosed record under seal.

11 (b) Any Court hearing which refers to or describes Protected Information shall, in
12 the Court's discretion, be in camera.

13 (c) Any party may seek an order from the Court that any portion of its evidence at
14 trial be taken in camera, with all related testimony and documents designated as Protected
15 Information and placed under seal.

16 (d) Counsel for any deponent or party may designate specific portions of
17 deposition testimony or exhibits as Protected Information by indicating on the record at the
18 deposition that the testimony of the deponent or any exhibits to his testimony are to be treated as
19 confidential.

20 8. Upon the final disposition (including any appeal, writ, review or rehearing) of this
21 action, all Protected Information furnished pursuant to the terms of this Stipulated Protective Order
22 and all copies thereof and all notes taken from such Protected Information that are not in custody of
23 the Court shall be destroyed by the party in possession thereof or returned to the disclosing party
24 within forty-five (45) days of the final disposition of this action. A party who chooses to destroy the
25 Protected Information in its possession shall provide Certification of such destruction in writing to
26 the disclosing party within forty-five (45) days of the final disposition of this action.

27 Upon request of the party who made the designation, each document designated as Protected
28 Information and filed with the Court under seal shall be retrieved, if possible, and either destroyed

1 by the party who filed it or returned to the party who made the designation within forty-five (45)
2 days of the final disposition of this action. A party who chooses to destroy the retrieved documents
3 shall provide Certification of destruction in writing to the disclosing party within forty-five (45) days
4 of the final disposition of this action.

5 9. Nothing contained herein shall prevent or preclude the use of documents,
6 correspondence, materials, or information designated as Protected Information in the prosecution or
7 defense of this action or any of the proceedings herein, provided that the use of such Protected
8 information is made with full and complete compliance with all provisions of this Stipulated
9 Protective Order. However, Protected Information, including extracts, copies and summaries
10 thereof, shall be used only for the purpose of this litigation and not for any business or other purpose
11 whatsoever.

12 10. The restrictions provided for herein shall terminate upon the return to the disclosing
13 party or the destruction of all Protected Information disclosed pursuant to this Stipulated Protective
14 Order.

15 11. This Stipulated Protective Order is subject to later modification by the Court on
16 application of a party or on its own motion. Further, this Stipulated Protective Order is without
17 prejudice to the right of a party to apply for an order modifying or limiting any designation of
18 information or documents as Protected Information.

19 12. Neither the entry of this Order, nor the designation of any information or
20 documents as Protected Information or failure to make such a designation, shall constitute evidence
21 or an admission with respect to any issue in this case, and shall not constitute a waiver of any
22 objections to the disclosure of Protected Information. Moreover, nothing in this Stipulated
23 Protective Order shall be construed to require any party to disclose to any other party any Protected
24 Information, or to prohibit any party from refusing to disclose Protected Information to any other
25 party.

26 13. Any party who subsequently appears in this action shall be bound by this
27 Stipulation unless they take steps to modify or revoke it as set forth above.
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1 Dated March 28, 2008


2 LAW OFFICES OF ROBERT F. KANE
3 LEGAL AID OF MARIN
4 COMMUNITY LEGAL SERVICES IN
EAST PALO ALTO
Attorneys for Plaintiff
AUDREY MCNAMARA NEVIS

REED SMITH LLP
David C. Powell
Heather B. Hoesterey
Attorneys for Defendant
WELLS FARGO BANK, N.A.

5
6 BY 
7 ROBERT F. KANE

BY 
HEATHER B. HOESTEREY

8 BARDELLINI, STRASW, CAVIN & BUPP, LLP
9 John F. Cavin
Helen V. Powers
10 Attorneys for Defendant
GATEWAY TITLE COMPANY

11
12 BY 
13 HELEN V. POWERS

14
15
16 ORDER

17 IT IS SO ORDERED.

18
19 Dated: _____

JUDGE OF THE U.S. DISTRICT COURT

1 Dated March 28, 2008

2 LAW OFFICES OF ROBERT F. KANE
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8
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16 GATEWAY TITLE COMPANY

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19 HELEN V. POWERS

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ORDER

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Dated: _____

JUDGE OF THE U.S. DISTRICT COURT

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12 Helen V. Powers
13 Attorneys for Defendant
14 GATEWAY TITLE COMPANY

15 BY


JOHN F. CAVIN

16 ORDER

17 IT IS SO ORDERED.

18 Dated: _____

JUDGE OF THE U.S. DISTRICT COURT